

# **POLAND 2012 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Poland is a republic with a multiparty democracy. The bicameral National Assembly consists of an upper house, the Senate (Senat), and a lower house (Sejm). The president, the prime minister, and the council of ministers share executive power. Observers considered the national assembly elections in October 2011 free and fair. Prime Minister Donald Tusk, leader of the Civic Platform Party, governed in a coalition with a smaller political party. Security forces reported to civilian authorities.

Among the country's principal human rights problems were an inefficient judicial system and lengthy court procedures, which impeded the delivery of justice. According to the latest available data, government monitoring of telephone locations and call logs without judicial review increased and remained unregulated. Protracted police investigations of cases involving anti-Semitic and xenophobic acts usually did not lead to the apprehension of perpetrators.

Other human rights problems included abuse of prisoners by guards and delayed restitution of private property. Criminal defamation laws restricted freedom of speech and press by discouraging speech, publications, and material on the Internet critical of public officials. Corruption remained a problem. Burdensome procedures discouraged appropriate classification and treatment of domestic violence as a crime. Societal problems included discrimination against women in the labor market; sexual exploitation of children; trafficking in persons; and discrimination and violence against ethnic minorities as well as lesbian, gay, bisexual, and transgender (LGBT) persons. Some incidents of symbolic vandalism and hate speech directed at minorities occurred during the year. Violations of workers' rights to organize, join unions and strike, as well as antiunion discrimination, also occurred.

The government generally enforced human rights and took steps to prosecute officials who committed abuses, whether in the security services or elsewhere in government.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

### **b. Disappearance**

There were no reports of disappearances or politically motivated kidnappings or abductions.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit such practices. There were problems, however, with police misconduct and corrections officers' abuse of prisoners. The criminal code lacks a clear, legal definition of torture, which authorities did not report as a separate crime. The law outlines disciplinary actions for police, which include reprimand, demotion in rank, and dismissal.

On February 22, the human rights ombudsman appealed to the justice minister to make regulations more precise and strengthen requirements for reporting the use of coercive measures, with the objective of deterring prison guards from using excessive force. Her letter followed the inspection of 11 prisons by the ombudsman's staff. She stated that actions undertaken by prison guards occasionally involved degrading or cruel treatment and, in extreme cases, even torture. The Ministry of Justice replied that the ombudsman's sample of only 11 of a total of 157 pretrial and prison detention facilities in the country was too small to warrant any generalization about such behavior nationwide. The ministry nonetheless announced that it had sent the ombudsman's concerns to the prison authorities and instructed them to investigate the allegations.

On April 17, the European Court for Human Rights (ECHR) ruled that the government had violated the prohibition of inhuman or degrading treatment through the prolonged application of a set of measures for handling "dangerous detainees," in this case a person arrested for drug smuggling. While conceding that the measures themselves may be justified for dangerous detainees, the court held that the duration and severity of the use of such measures in this case exceeded legitimate security requirements and were thus a violation of the European Convention on Human Rights.

Chemical castration is mandatory for an offender involved in incest or rape of a person younger than age 15, and judges may order the procedure for other

convicted pedophiles six months before their expected parole. According to prison authorities, no cases of obligatory chemical castration occurred during the year.

### **Prison and Detention Center Conditions**

Prison and detention center conditions generally met international standards; however, prison medical staff vacancies and limited access to specialized medical treatment continued to be a problem, and there were reports that prison service personnel at times abused inmates. The government permitted monitoring visits by independent human rights observers.

Physical Conditions: As of November 30, government statistics indicated that prisons and detention facilities incarcerated 85,419 persons, including pretrial detainees, in facilities with a capacity for 86,841 persons. As of November 30, 2,783 prisoners (3 percent of the prison population) were women. As of December 31, 87 persons younger than 18 years of age were imprisoned. While authorities generally separated juveniles from adults, the law allows them to share housing in prisons and detention centers in exceptional cases. Authorities usually sent juveniles (persons between 17 and 21 years old) accused of serious crimes to pretrial detention.

As of November 30, according to the Central Prison Authority, there were 7,391 pretrial detainees, a decrease of 1,195 from November 2011.

Authorities often held pretrial detainees in prisons pending trial, but in areas separate from convicts. Conditions for pretrial detainees were generally similar to those for prisoners but on occasion were worse due to overcrowding and poorer facilities resulting from court-mandated restrictions on where a prisoner should be located while awaiting trial.

The law sets the minimum cell size at 32 square feet per person, but prisoners may occupy smaller cells for a limited time. As of the end of November, 868 detainees were in cells smaller than the legally mandated minimum, according to government statistics. Prisoners had access to potable water.

During the year 107 prisoners died in prison, including 16 who committed suicide.

Administration: Record keeping on prisoners was adequate. In order to reduce the number of inmates in detention facilities, the Ministry of Justice expanded a system of electronic surveillance to allow nonviolent offenders to serve their

sentences outside detention facilities. Until December 31, according to media reports, 9,596 persons served their prison sentences outside detention facilities.

Prisoners may file complaints with prison officials, a prison ombudsman, the human rights ombudsman, the Ministry of Justice, or local nongovernmental organizations (NGOs), and prisoners did so. The human rights ombudsman received 7,869 complaints from prisoners and relatives during the year, compared with 6,462 in 2011. Of these complaints, 21 percent dealt with treatment by prison authorities, 18 percent with prison conditions, 15 percent with medical treatment, and 7 percent with contact with the outside world.

Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The ombudsman can join proceedings in civil and administrative courts on behalf of prisoners and detainees, either when these have filed a complaint or when information otherwise leads to an allegation of inhumane conditions. At the request of the Ministry of Justice, the human rights ombudsman administers the national preventive mechanism to investigate and monitor prison and detention center conditions. The office of the ombudsman publishes its findings and a summary of its recommendations to relevant authorities in an annual report.

The government allowed independent monitoring of prison conditions and detention centers on a regular basis by the human rights ombudsman. During the year the ombudsman visited 28 prison and detention facilities, including pretrial and juvenile detention centers, as well as guarded centers for asylum seekers.

Prisoners and detainees had reasonable access to visitors and could participate in religious observance.

Monitoring: In its most recent report on conditions in the country's prison system, the Council of Europe's Committee for the Prevention of Torture in 2011 listed poor medical care, mistreatment of prisoners by police officers, and the lack of a developed system of legal aid as the main problems affecting the country's prisons and detention facilities.

#### **d. Arbitrary Arrest or Detention**

The constitution and the law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

## **Role of the Police and Security Apparatus**

The police force is a national law enforcement body with regional and municipal units overseen by the Minister of Interior. The Internal Security Agency has responsibility for investigating and combating organized crime, terrorist threats, and proliferation of weapons of mass destruction. The Central Anticorruption Bureau (CBA) is responsible for combating government, business, and financial corruption. Both latter agencies report directly to the prime minister.

Civilian authorities maintained effective control over the security forces, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

## **Arrest Procedures and Treatment While in Detention**

In most cases the constitution and the law require authorities to obtain a court warrant based on evidence to make an arrest, and authorities generally complied with the law in practice. The constitution and the law allow detention of a person for 48 hours before authorities must file charges and an additional 24 hours for the court to decide whether to order pretrial detention. Authorities must promptly inform detainees of the charges against them and generally did so. Detained persons may appeal the legality of their arrest, and the government respected this right in practice. There was a functioning bail system, and authorities released most detainees on bail. Pretrial detention is applied only by court order. Detainees have the right to counsel; the government provided free counsel to indigent defendants. Defendants and detainees have the right to consult an attorney at any time. Authorities did not hold suspects incommunicado or under house arrest.

Pretrial Detention: The law permits authorities to detain persons charged with a crime for up to three months, and authorities transferred most juveniles to a remand facility within 72 hours of detention. A court may extend pretrial detention every six to 12 months, but the law specifies that the total time in detention may not exceed two years (in certain complex cases, the court may petition the Supreme Court for an extension beyond two years). In 2011, the last year for which statistics are available, prosecutors requested pretrial detention for 25,452 persons, a decrease of 236 from 2010. As of December 2011 there were 3,764 persons in pretrial detention, with 71.5 percent in detention for up to three months and 8 percent (30 persons) between one and two years. No one was in pretrial detention for longer than two years as of the end of December 2011.

Detention of Rejected Asylum Seekers or Stateless Persons: Authorities placed some asylum seekers in guarded centers for foreigners while they awaited decisions on their asylum applications or for deportation. The border guard can only place an individual in a guarded center by court order, and this typically involved foreigners who had already attempted to cross the border illegally or lacked identity documents. Because children in guarded centers had no access to public education, on June 20 a coalition of NGOs publicly called for a ban on placing minors in the centers.

From mid-October to early November the local press reported that detainees in guarded centers conducted hunger strikes (refusing to eat meals in the dining halls), claiming abusive behavior by border guards. On December 14, the minister of interior announced the results of an investigation into the alleged abuses, conducted in coordination with NGOs and international organizations. The investigation found some irregularities but no abusive behavior. Among its recommended reforms was to ensure that unaccompanied minors not be placed in guarded centers.

#### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice; however, the judiciary remained inefficient and did not enjoy public confidence.

The court system remained cumbersome, poorly administered, and inadequately staffed. The consensus among local human rights NGOs was that the judicial system was improperly structured and inefficient, with a poor division of labor between different courts. In addition cumbersome hiring procedures created many vacancies among judges and support staff, further slowing the justice system. According to the General Prosecutor's Office, while the overall number of prosecutors was large (5,903), the number who dealt with criminal offenses was inadequate. A continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

The e-court exists to adjudicate simple cases, which typically involved unpaid utility bills. A party files a claim on the e-court's Web site for civil pecuniary claims, and a judge can issue a writ of payment based on this electronic submission. Commercial and labor claims are eligible for adjudication by the e-court although nonpecuniary and family law claims are not. Defendants who

dispute the judgment have recourse to a regular court for trial. From its inception in 2010 until September 21, the e-court received more than four million cases and settled 98 percent, according to its press spokesperson.

### **Trial Procedures**

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence and the right to be informed promptly and in detail of the charges against them. The government provides interpretation for defendants who do not speak Polish. Trials are usually public; however, the courts reserve the right to close a trial in some circumstances, including divorce proceedings, cases involving state secrets, and cases whose content may offend public morality. The law provides for juries, usually composed of two or three individuals appointed by local officials. In regional and provincial courts, a panel of one judge and two lay assessors tries cases. Indigent defendants may consult an attorney provided without cost. The government must provide defendants and their attorneys adequate time and facilities to prepare a defense. Defendants must be present during trial. They may have access to government-held evidence, confront and question witnesses, and present witnesses and evidence on their own behalf. Prosecutors may grant witnesses anonymity if they express fear of retribution from defendants. Defendants may not be compelled to testify or confess guilt.

After a court issues a verdict, a defendant has seven days to request a written statement of the judgment; courts must respond within seven days. A defendant has the right to appeal a verdict within 14 days of the response. A two-level appeal process is available in most civil and criminal matters.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals or organizations may seek civil remedies for human rights violations. The government's implementation of court orders, particularly for payment of damages, remained slow, cumbersome, and ineffective.

After they exhaust remedies available in the domestic courts, persons have the right to appeal to the ECHR decisions of those courts involving alleged violations by the government of the European Convention on Human Rights.

### **Regional Human Rights Court Decisions**

During the year there were binding ECHR decisions against the country, and the government generally complied with court orders.

On April 12, the Sejm's Justice and Human Rights Committee requested that the government report annually on implementation of the ECHR's judgments. According to the Helsinki Human Rights Foundation, the government mostly complied with ECHR judgments in cases that affected a large number of persons and in cases of particular legal importance in which systematic or legislative changes were required. The foundation claimed the government complied less often with decisions that did not attract media attention or were difficult to implement for political reasons, such as those involving reproductive rights or the teaching of ethics in schools.

### **Property Restitution**

The law provides for restitution of communal property seized during the Communist and Nazi eras, but the process proceeded very slowly during the year. No comprehensive law addresses the return of or compensation for private property; however, individuals may seek the return of confiscated personal property through the courts. During the year courts issued several high-profile rulings returning property or providing compensation to claimants.

### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The law prohibits most such actions; however, the government did not always respect these prohibitions in practice.

The law allows electronic surveillance for crime prevention and investigation. There was neither independent judicial review of surveillance activities nor any control over the use of information obtained by monitoring private communications. A number of government agencies had access to wiretap information.



In 2011 the Office for Electronic Communications reported that law enforcement agencies requested access to telecommunications data (including call logs, telephone location, and names registered to specific numbers) 1.8 million times, an increase of 500,000 over the number of requests in 2010. Legislation gives nine different agencies broad access to such data without requiring specific grounds for it. On July 6, the chairperson of the Constitutional Court combined into a single case five complaints submitted by the ombudsman and prosecutor general which questioned the legality of provisions giving law enforcement agencies and special services broad access to telephone records. At year's end, the case remained before the Constitutional Court.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The constitution provides for freedom of speech and press; however, laws restricted these freedoms. The government and courts have either upheld or instituted laws that criminalize defamation by individuals and the media, and limit editorial independence.

Freedom of Speech: Defamation is a criminal offense and includes publicly insulting, slandering members of parliament, government ministers, or other public officials, as well as private entities and persons. Defamation outside the media is punishable by a fine and community service. In July 2011 the Constitutional Court ruled that the maximum sentence of three years' imprisonment for insulting the president was constitutional. The courts rarely applied maximum penalties; persons found guilty of defamation generally only faced fines. According to Ministry of Justice statistics for 2011, the courts convicted two persons for defamation of the president and two persons for insulting constitutional organs of the government. At least one case of defamation of the president on the Internet occurred during the year, but it was still pending appeal at the end of the year. Of the 232 persons convicted of public defamation in 2011, 180 of them committed defamation outside the media.

On September 18, the ECHR held that the Wielicka district court had violated the right to free expression of Professor Izabela Lewandowska-Malec. The court had fined her 7,500 zloty (\$2,410) for criminal defamation because of her writing a letter to the press criticizing the mayor of Swiatniki Gorne.

On September 22, 35 soccer fans were fined between 500 and 1,000 zloty (approximately \$160 to \$320) for offending constitutional organs of the state by shouting an offensive slogan against Prime Minister Tusk and for disturbing the public peace and order. The fans were protesting the prime minister's decision to respond to soccer hooligan violence by closing some stadiums. Six fans paid the fine and the government brought the remaining 29 to trial on December 20. The outcome of the case was pending as of December 31.

The law prohibits hate speech, including dissemination of anti-Semitic literature and the public promotion of fascist, communist, or other totalitarian systems. In July 2011, however, the Constitutional Court ruled that the parts of the provisions dealing specifically with the production and storage of Communist materials for distribution were unconstitutional.

Freedom of Press: The government can prosecute libel and defamation carried out through the mass media as a criminal offense, punishable by fines and imprisonment for up to one year. While journalists never received maximum penalties in defamation cases, the risk of facing criminal charges might discourage them from addressing sensitive subjects, according to some analysts. Moreover, media owners were aware that potentially hefty fines could threaten the financial survival of local independent newspapers. In 2011 the courts convicted 52 persons of criminal defamation in the mass media: 35 persons were fined, nine were sentenced to public work, and eight to imprisonment (although sentences for seven were suspended). This number included politicians pressing charges against each other, academics and experts who gave interviews or wrote articles for the media, and a few journalists. On August 3, the president pardoned investigative journalist Jerzy Jachowicz, who was fined 16,000 zloty (\$5,150) in May 2011 for an article he published in 2007 about a former Communist secret service agent and his alleged connections with a Polish-American.

Censorship or Content Restrictions: The constitution provides for freedom of the press and social communication, and the right to acquire and disseminate information. It prohibits censorship of the press or social communication. However, the law prohibits, under penalty of fines, the promotion of activities that are against government policy, morality, or the common good, and requires that all broadcasts "respect the religious feelings of the audiences and, in particular, respect the Christian system of values." The government rarely enforced this provision. The law also places some limits on editorial independence, for example, by specifying that journalists must verify quotes and statements with the person who made them before publication.

The National Radio and Television Broadcasting Council, a five-member body appointed by the sejm (two members), the senate (one member), and the president (two members), is responsible for protecting freedom of speech and has broad power to monitor and regulate programming, allocate broadcasting frequencies and licenses, apportion subscription revenues to public media, and impose financial penalties on broadcasters. While council members are required to suspend their membership in political parties and public associations, critics asserted that the council remained politicized.

On January 17, the National Radio and Television Broadcasting Council denied the digital broadcasting license application of the Roman Catholic television outlet, TV Trwam, ostensibly for deficiencies in the application. On May 25, the Warsaw Administrative Court rejected Trwam's appeal of the council's decision. On August 25, Trwam appealed to the Supreme Administrative Court. In a January 10 letter to the council, the Helsinki Human Rights Foundation alleged that the criteria for granting licenses were unclear, leaving the council too much room for discretion. Likewise, on July 3, the human rights ombudsman filed a complaint with the Constitutional Court claiming that the excessive discretion in the licensing process, which the media law provides to the council, permits arbitrary decision making, potentially limiting free speech.

On June 18, the Warsaw Appeals Court upheld the decision of the first instance court to fine pop star Dorota Rabczewska (known by stage name "Doda") 5,000 zloty (\$1,610) for offending the religious feelings of two complainants. She was initially sentenced on January 16 for claiming in an interview in 2011 that the Bible was written by someone "drunk on wine and smoking some herbs."

### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without appropriate legal authority. However, the law against defamation, which restricts freedom of speech, applies to the Internet as well. In 2011, according to data from the International Telecommunication Union, 65 percent of the population used the Internet.

On September 14, the District Court in Piotrkow Trybunalski sentenced Robert Frycz to 10 months of community service for insulting the president. Frycz was the editor of a Web site, which published satirical materials about the president and

hosted games such as Komor Killer, in which users fired virtual vegetables at the president. On September 17, the representative on freedom of the media of the Organization for Security and Cooperation in Europe (OSCE), Dunja Mijatovic, criticized the criminal conviction of Frycz and called for decriminalization of defamation in the country.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedom of Peaceful Assembly and Association**

#### **Freedom of Assembly**

On October 4, the president signed an amendment to existing law on public assembly to introduce new restrictions on holding peaceful assemblies in certain cases, such as prohibiting simultaneous demonstrations in the same location if they may pose a threat to public order. During the period for public consultation on the draft bill, some national NGOs strongly criticized the revision. On May 21, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) stated that the restriction on organizing simultaneous assemblies or counterdemonstrations violated international standards. On July 17, the Helsinki Human Rights Foundation sent an official request to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association to examine the impact of the revised law.

#### **Freedom of Association**

The constitution provides for freedom of association, and the government generally respected this right in practice.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and the law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Safe Country of Origin/Transit: The law permits denial of refugee status based on safe country of origin or safe country of transit; however, the law also includes provisions to consider the protection needs of individuals with exceptional cases.

Refugee Abuse: In addition to the guarded centers for foreigners (see section 1.d.), the government operated 11 open centers for asylum seekers, located in the Warsaw, Bialystok, and Lublin areas with a capacity of approximately 2,000 persons. Some incidents of gender-based violence were reported, but the UNHCR reported that standard operating procedures were in place in all centers to address such incidents, and victims were assigned special social workers to assist when this occurred. The UNHCR reported no major or persistent problems with abuse in the centers.

Employment: Persons granted asylum or refugee status had the right to work; however, they experienced difficulties finding jobs, due in part to poor integration programs.

Access to Basic Services: According to the UNHCR, conditions in centers for asylum seekers were modest and improving gradually but met necessary requirements. Access to basic medical care was satisfactory, although asylum seekers complained about lengthy delays in accessing specialist medical care in some centers. Asylum seekers faced language and cultural barriers and had limited access to higher education. Children who stayed in centers for asylum seekers had free access to public education, but those placed with relatives in guarded centers for foreigners had no access to public education.

Temporary Protection: During the year the government provided subsidiary protection to 164 individuals compared with 207 persons in 2011. Persons with

subsidiary protection had the right to work, received social assistance, and participated in the government's integration programs. Additionally, the government granted tolerated stay, a status which legalizes persons who cannot be deported but does not grant them the access to integration programs that subsidiary protection recipients have, to 329 persons compared with 241 persons in 2011.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

#### **Elections and Political Participation**

Recent Elections: Observers considered the parliamentary elections held in October 2011 free and fair. The ODIHR reported that the elections were pluralistic and democratic with a high degree of public confidence in all stages of the election process.

Participation of Women and Minorities: The law mandates that neither gender represent more than 65 percent of the candidates on political parties' election lists. Following the elections in 2011, women filled 110 of the 460 seats in the Sejm and 13 of the 100 seats in the Senate. Four women sat in the 20-member Council of Ministers. Eleven of the country's 51 members of the European Parliament were women.

In the 2011 elections, the second member of parliament of African descent, as well as the first transgender and first openly gay member of parliament, won seats in the sejm. The law exempts parties of historic ethnic minorities, including Belarusian, Czech, Lithuanian, German, Armenian, Russian, Slovak, Ukrainian, and Jewish parties from the requirement that they must receive 5 percent of the vote nationwide to qualify for seats in individual districts. Based on this exemption, one member of a historic ethnic minority was elected to the sejm (representing the German minority in Silesia) but none to the senate. The government's cabinet contains no members of minority groups.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials; however, the government did not always implement these laws effectively, and officials sometimes engaged in corrupt practices. Several government bodies are responsible for combating corruption. After the 2011 elections, the prime minister abolished the Office of the Plenipotentiary for the Prevention of Irregularities in Public Institutions, which observers had criticized for ineffectiveness. According to the prime minister, the CBA had sufficient competencies to combat corruption. The CBA has broad powers to audit the financial holdings of public officials and fight corruption in public procurement. It also has authority to conduct searches, secretly videotape, and tap telephone conversations as well as to make arrests. The CBA actively collaborated with civil society, operated effectively and independently, and had sufficient resources.

Although the courts did not convict any serving government officials of corruption, authorities launched investigations of possible corruption involving government officials. Local NGOs criticized the lack of a national anticorruption strategy. Surveys revealed that citizens believed political parties and members of the legislative branch, the healthcare system, and the judiciary were the most corrupt.

On July 18, the minister of agriculture resigned following the release of a video recording of a private conversation that suggested irregularities in institutions the ministry supervised and within the ministry. In the recorded conversation, the former head of the Agricultural Market Agency, Wladyslaw Lukasik, implied there were nepotism and misuse of public money by members of the agrarian Polish People's Party. The prosecutor's office subsequently initiated an investigation of officials from the Agricultural Market Agency and the ministry, and the CBA initiated an investigation into a state-owned grain company, Elewarr, accused of financial irregularities in the released videotapes.

Beginning in 2011 authorities investigated a large-scale corruption scandal involving multiple public institutions, including the Ministry of Interior, the social insurance office, and police and fire services. Officials of these agencies allegedly took bribes of up to two million zloty (\$644,000) to sign technology contracts that permitted elevated payments to vendors. On May 18, the CBA arrested two persons, including the head of information technology system design for the national police headquarters.

On April 17, the courts sentenced former sports minister Tomasz Lipiec to three-and-a-half years' imprisonment and a 10-year ban on holding public office for corruption committed before and during his tenure as minister from 2005-07.

On March 2, a Warsaw-based think tank, the Public Affairs Institute, in cooperation with Transparency International, stated in a comprehensive assessment of the country's integrity system that the government had no national anticorruption policy and demonstrated no strong will to fight corruption.

Financial disclosure laws oblige public officials to submit financial statements about financial assets, real property, stocks, and bonds owned by the person and his or her spouse. The law does not apply to assets or income of dependent children. With the exception of certain situations provided for under the law, the regulations protect information included in financial statements as "restricted access" information and not made public without written permission of the provider. The law requires officials to file financial disclosures before they take office, on the day they leave office, and each year prior to March 31, but it does not require filing when changes occur in their holdings.

The constitution and the law provide for public access to government information; the government generally provided access to citizens and noncitizens, including foreign media. The law requires that the government base any refusal of information requests on exceptional circumstances related to government secrets, personal privacy, or proprietary business data. Refusals may be appealed.

On April 18, the Constitutional Court struck down a measure the president had signed in September 2011 which allowed the government to restrict public access to certain information to protect "important economic interests of the state," including the country's negotiating positions in the international arena.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: The country's independent human rights ombudsman presents an annual report to the sejm on the state of human rights and civic freedom in the country. The ombudsman generally had adequate resources, enjoyed the government's cooperation, and was considered effective. The ombudsman received approximately 500,000 zloty (\$161,000) in funding for the



year to cover monitoring implementation of the principle of equal treatment and to support victims of discrimination. In 2011 the human rights ombudsman reported receiving 58,277 cases, an increase of 1,586 from 2010.

Both chambers of the National Assembly have committees on human rights and the rule of law. The committees serve a primarily legislative function and are composed of representatives from multiple political parties.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution prohibits discrimination in political, social, and economic life “for any reason whatsoever.” The law prohibits discrimination on the grounds of race, ethnic origin, nationality, religion, belief, opinion, disability, age, or sexual orientation.

The law requires the human rights ombudsman to monitor implementation of the principle of equal treatment and to support victims of discrimination. On May 28, the ombudsman stated the law, which entered into force in January 2011, had not improved protection from unequal treatment. Moreover, she suggested that some of its provisions might be unconstitutional since it does not treat all groups equally, providing greater protection against discrimination on grounds of race, ethnicity, gender, and religion than disability, sexual orientation, and age. Domestic NGOs also criticized the law.

### **Women**

Rape and Domestic Violence: Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. Stalking is punishable by a term of up to 10 years in prison. According to national police statistics, during the first half of the year there were 734 reported cases of rape. However, NGOs estimated that the actual number of rapes was much higher because women often were unwilling to report rape due to social stigma. During the same period police forwarded 320 possible rape cases to prosecutors and 46 to family court (for underage offenders) for indictment.

At year’s end the case of the former mayor of Olsztyn, Czeslaw Malkowski, on charges of rape, attempted rape, and sexual harassment of female employees continued before the Ostroda Regional Court. His trial began in October 2011.

While courts can sentence a person convicted of domestic violence to a maximum of five years in prison, most convictions resulted in suspended sentences. The law permits authorities to place restraining orders on spouses to protect against abuse without prior approval from a court, but police do not have the authority to issue immediate restraining orders at the scene of an incident.

During the first half of the year, police identified 8,942 cases of domestic violence (459 fewer than the same period in 2011). Of these cases, authorities forwarded 7,432 for prosecution (1,014 fewer than the same period in 2011). During the first six months of the year, police reported that officers conducted 24,089 interventions related to domestic violence (14,690 fewer than the same period in 2011). According to prison authorities, at the end of the year, 4,710 individuals were serving prison sentences for crimes related to domestic violence.

According to some women's organizations, statistics underreported the number of women affected by domestic abuse, particularly in small towns and villages. The Women's Rights Center reported that police were occasionally reluctant to intervene in domestic violence incidents if the perpetrator was a member of police or if victims were unwilling to cooperate.

The law requires every municipality in the country to set up an interagency team of experts dealing with domestic violence. According to some NGOs, this requirement might actually have worsened the situation because the interagency teams focused on resolving the "family problem" rather than initially treating domestic violence claims as criminal accusations. The NGOs also believed the additional work required by the new procedures discouraged police from classifying cases as domestic violence and could have contributed to the reduction in reported cases during the year.

Centers for domestic violence victims operated by NGOs provided counseling for offenders and training for personnel who worked with victims. The government provided victims and families with legal and psychological assistance and operated 221 crisis centers and 11 shelters for pregnant women and mothers with small children. In addition local governments operated 35 specialized centers funded by the government's National Program for Combating Domestic Violence. The centers provided social, medical, psychological, and legal assistance to victims and "corrective education" programs for abusers. In 2011 the government allocated approximately 12.1 million zloty (\$3.9 million) for the centers' operating costs.

During the year the government spent 4.4 million zloty (\$1.4 million) on programs to combat domestic violence. They were primarily corrective-education programs for abusers and training for social workers, police officers, and specialists who were the first contacts for victims of domestic violence. In addition the Ministry of Labor and Social Policy spent 300,000 zloty (\$97,000) to organize a conference on domestic violence, a national public awareness campaign, and research on the problem of domestic violence. Regional governments spent almost 2.4 million zloty (\$773,000) on training first responders. The government also spent approximately one million zloty (\$322,000) on combating domestic violence under the “Safer Together” program and 150,000 zloty (\$48,300) for a hotline for children and young persons operated by Nobody’s Children Foundation, a Warsaw-based NGO.

Sexual Harassment: The law prohibits sexual harassment. Persons convicted of sexual harassment may be sentenced up to three years in prison. The law defines sexual harassment as discriminatory behavior in the workplace, including physical, verbal, and nonverbal acts, violating an employee’s dignity.

According to the Women’s Rights Center, sexual harassment continued to be a serious and underreported problem. Many victims did not report abuse or withdrew harassment claims in the course of police investigations due to shame or fear of losing their job. However, the media reported on certain high profile cases of sexual harassment. During the first six months of the year, police reported 46 cases of sexual harassment, compared with 32 cases during the first six months of 2011.

Reproductive Rights: The government generally recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. While there were no restrictions on the right to obtain contraceptives, some NGOs believed their use was limited because the government excluded prescription contraceptives from its list of subsidized medicines, which made them less affordable. Some NGOs also believed that religious factors, such as the strong influence of the Roman Catholic Church, affected the use of contraceptives. The law does not permit voluntary sterilization. The government permitted health clinics and local health NGOs to provide information on family planning, including information about contraception, under the guidance of the Ministry of Health.

Discrimination: The constitution provides for equal rights for men and women in family law, property law, and in the judicial system; however, few laws exist to

implement this provision. Women held lower-level positions in workplaces, frequently received lower pay than men for equivalent work, were fired more readily, and were less likely to be promoted.

According to the prime minister's plenipotentiary for equal treatment, women earned on average approximately 17 percent less than men. This was a slight improvement on the average over the previous 10 years of 20 percent less.

The plenipotentiary for equal treatment has a mandate to counter discrimination and promote equal opportunities for all. The Ministry of Labor and Social Policy continued to promote gender mainstreaming in the labor market, including providing support for the Congress of Women and funding public awareness campaigns.

## **Children**

Birth Registration: A child acquires citizenship at birth if at least one parent is a citizen regardless of where the birth took place. Children born or found in the country with parents of unknown or stateless origin are also citizens. The government has a system of universal birth registration immediately after birth.

Child Abuse: The constitution and the law prohibit violence against children and provide for prison sentences ranging from three months to five years. Incidents of child abuse were reported, but convictions for abuse were rare.

A government ombudsman for children's rights issued periodic reports on problems affecting children, such as pedophilia on the Internet, improving access to public schools for children with disabilities, and providing better medical care for children with chronic diseases. The ombudsman's office also operated a 24-hour hotline for abused children. In 2011 the ombudsman received 29,256 complaints of infringements of children's rights under the country's laws, an increase of 9,591 from 2010. Of that number, almost 60 percent concerned the right to be brought up in a family (citing factors such as limitation of parental rights through divorce and the need for better support for foster families), 12 percent concerned the right to protection against abuse and exploitation, 10 percent concerned the right to education, and 8 percent concerned the right to adequate social conditions.

Child Marriage: The country's legal minimum age of marriage is 18 years for women and men, although the guardianship court may grant a girl permission to

marry at as young as age 16 under certain circumstances. In the first half of the year, the courts received 310 requests for permission for girls to marry between the ages of 16 and 18 years, and the courts issued 205 permissions during this time. In 2011 the total number of requests was 630, and 483 permissions were granted.

Sexual Exploitation of Children: The law prohibits sexual intercourse with minors younger than 15 years of age. The penalty for a conviction of statutory rape ranges from two to 12 years' imprisonment. Child pornography is also illegal. According to the Ministry of Justice, in 2011 the courts convicted 666 persons of sexual intercourse with persons younger than age 15 and 22 persons of pimping with the involvement of a minor.

The production, possession, storage, or importation of child pornography is punishable by imprisonment for a period of three months to 10 years. During the year police arrested 73 persons and confiscated computers and pornographic materials in two large, nationwide operations against child pornography and pedophiles, compared with 251 persons arrested in nationwide operations in 2011. Information received from authorities in other countries was usually the basis for nationwide operations. Successful prosecution of child pornography remained a challenge due to lack of experience in prosecuting complex computer-based crimes based on digital evidence.

According to the government and the Nobody's Children Foundation, a leading NGO dealing with trafficking in children, trafficking in children for sexual exploitation remained a problem.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's annual report on compliance at [www.travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html), as well as country-specific information at [www.travel.state.gov/abduction/country/country\\_3781.html](http://www.travel.state.gov/abduction/country/country_3781.html).

## **Anti-Semitism**

The Union of Jewish Communities estimated the Jewish population at approximately 20,000. Anti-Semitic incidents continued to occur, often involving desecration of significant property including synagogues and Jewish cemeteries.

On March 18, perpetrators painted anti-Semitic symbols and slogans on the walls of a Jewish cemetery in the town of Wysokie Mazowieckie and on the memorial to the Jewish inhabitants of the town killed during the Holocaust. On September 3, media reported that the prosecutor discontinued the investigation due to the failure to find the perpetrators.

On July 3, the Warsaw district prosecutor's office discontinued a criminal investigation into the defamation of Foreign Minister Sikorski through anti-Semitic comments about his family posted on the Internet in 2011. The prosecutor identified the perpetrators, but Minister Sikorski did not press charges as an individual, and the prosecutor's office cited a lack of public interest rationale in continuing the investigation officially. Sikorski appealed this decision as a matter of public interest, and there was no ruling on the prosecutor's decision at the end of the year.

On August 31, the district prosecutor's office in Lomza closed its investigation into the desecration a year earlier of a memorial to Jews killed by Poles in the town of Jedwabne during World War II. The office failed to identify the perpetrators.

During the year anti-Semitic behavior sometimes occurred at sporting events. On March 28, the Warsaw prosecutor's office brought charges against 18 soccer fans for inciting hatred on national and religious grounds. The charges referred to an April 2011 soccer match during which a group of soccer fans shouted anti-Semitic slogans. As of the end of the year, the case was still pending.

On August 31, the district court in Bialystok sentenced four men to prison for one year for membership in an organized criminal group promoting fascism and inciting hatred on national and religious grounds. The group operated during 2006 and 2007 in Bialystok and painted neo-fascist slogans and symbols on Jewish sites.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other government services.

The government restricts the right of persons with certain mental disabilities to vote or participate in civic affairs. The government effectively enforced these provisions; however, there were reports of some societal discrimination against persons with disabilities.

The law states that buildings should be accessible for persons with disabilities, and at least three laws require retrofitting of existing buildings to provide accessibility. Many buildings remained inaccessible to persons with disabilities, however, because regulations do not specify what constitutes an accessible building. Public buildings and transportation generally were accessible although older trains and vehicles are often less accessible to persons with disabilities, and many train stations are not fully accessible for all types of disabilities. The law specifies that children with disabilities have the right to attend all levels and types of school. Where no school nearby is able to accommodate a child with disabilities, the child is provided with alternatives such as independent schooling by teachers at the child's home.

The Ministry of Labor and Social Policy is responsible for disability-related matters. During the year the government plenipotentiary for persons with disabilities organized training sessions for central and local government officials to encourage them to hire persons with disabilities. The government fund for rehabilitation of persons with disabilities continued a nationwide campaign encouraging companies to employ them. The fund granted money to NGOs to organize media campaigns on the rights of persons with disabilities.

### **National/Racial/Ethnic Minorities**

The constitution gives ethnic groups who have been living on the territory of present-day Poland for more than 100 years explicit rights to preserve their own language, customs, and culture. The law recognizes nine “national minorities” (Belarusian, Czech, Lithuanian, German, Armenian, Russian, Slovak, Ukrainian, and Jewish) and four “ethnic minorities” (Karaim, Lemka, Roma, and Tatar). In addition to the constitutionally provided rights to both national and ethnic minorities, national minorities are exempt from the 5 percent minimum threshold requirement for winning seats in parliament. The law also contains several provisions against hate crimes and inciting violence based on ethnic origin, but government enforcement efforts were sometimes ineffective.

Unlike the previous year, no high-profile symbolic xenophobic incidents occurred during the year. According to local NGOs, such as Never Again and Open

Republic, there was no increase in the total number of hate crimes, and some NGOs reported improvement in the ability of police to identify hate crimes. Prosecutors investigated 322 hate crime cases in 2011, compared with 182 in 2010. Of the total, 74 involved the Internet, 10 involved press and book publications, 22 involved sports fans or athletes, seven occurred at demonstrations or assemblies, 36 were racist inscriptions on walls or buildings, and six concerned television and radio programs. The government, while quick to denounce hate crimes, was frequently unable to find the perpetrators of such incidents.

Extremist groups, while still small in number, maintained a public presence in high-profile marches and on the Internet. On April 9, the neo-fascist group Blood and Honor reported the establishment in Lodz of a new group called “White Wolves.”

On September 4, Gdansk police arrested a person suspected of setting fire to a small grocery store owned by a Palestinian who was the imam of the Gdansk Muslim community. The store was set on fire on three separate occasions within one month. The mayor of Gdansk condemned the incidents on public radio.

In June during the Euro 2012 football tournament, several members of the Dutch football team reported hearing fans shouting “monkey chants” directed at black members of their team during a training session in Krakow. Despite widespread concerns about possible xenophobic behavior during Euro 2012, this was the only incident widely reported.

In March anti-Arab stickers, including some branding Arabs as terrorists, were found on the doors of apartments inhabited by Saudi students living in Olsztyn. Police arrested two men in connection with the incident. Approximately 300 young Saudi students lived in the city, and the Saudi Arabian ambassador to the country traveled to Olsztyn after the incident to speak with government officials and appeal to the community to stop intolerant behavior.

Societal discrimination against Roma continued. The 2011 national census recorded approximately 12,000 Roma, although the Romani community estimated the number to be much higher.

There were reports that some local officials discriminated against Roma by denying them adequate social services. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education.



On February 29, the appeals court in Poznan ordered the owner of a club to apologize and pay 10,000 zloty (\$3,220) in compensation to a Rom denied entry to the club in 2010.

According to the Ministry of Administration and Digitalization, 2,985 of the 3,528 Romani children between the ages of six and 16 years were enrolled in school in the 2010-11 school year. Romani organizations and the Ministry of Education reported that authorities continued to send many Romani children, particularly in southern provinces, to schools for children with mental disabilities unnecessarily. A 2011 report by the Jagiellonian University in Krakow showed that 52 percent of Romani children placed in such schools were intellectually able to study in regular schools.

Approximately 80 percent of Roma were unemployed nationally, but levels of unemployment in some regions reached nearly 100 percent.

The government allocated approximately 10 million zloty (\$3.2 million) to the annual program for Roma, which included educational and other projects to improve health and living conditions and reduce unemployment. The program also focused on civic education and provided grants for university and high school students.

There were also scattered incidents of racially motivated violence including verbal and physical abuse directed at Roma and persons of African, Asian, or Arab descent. The Ukrainian and Belarusian minorities continued to experience petty harassment and discrimination.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

The constitution does not prohibit discrimination on the grounds of sexual orientation, although the laws on discrimination in employment cover sexual orientation and gender identity. The prime minister's plenipotentiary for equal treatment monitors LGBT problems.

NGOs, including the Helsinki Foundation for Human Rights, reported increasing acceptance of LGBT persons by society and the government. However, they stated that discrimination was still common in schools, workplaces, hospitals, and clinics. For example, authorities sometimes prevented LGBT persons from donating blood.

During the year there were some reports of skinhead violence and societal discrimination against LGBT persons, but NGOs maintained that most cases of discrimination against LGBT persons went unreported.

On May 19, counterdemonstrators temporarily disrupted Krakow's eighth annual Equality March, one of several LGBT marches held in the country during the year. Police were unable to prevent scuffles between the 600 marchers and approximately 300 members of the nationalist group National Rebirth of Poland. Police arrested seven persons, including three minors. Following the protest the Equality March continued without interruption.

On June 2, between 4,000 and 5,000 persons participated in Warsaw's 11th Equality Parade. Three small counterdemonstrations occurred, but the parade and counterdemonstrations proceeded without any major incidents, and no one was hurt.

The government took several steps during the year to respond to societal discrimination on the basis of sexual orientation and gender identity. The law requires the ombudsman to monitor and promote equal treatment and to support victims of discrimination on all grounds. During the year for the first time, the ombudsman received funding (approximately 500,000 zloty [\$161,000]) to implement these obligations.

On September 7, the plenipotentiary for equal treatment appealed to the Minister of Education to take appropriate action to promote tolerance towards LGBT students. Her appeal followed a Campaign against Homophobia report on September 6 which showed that 76 percent of LGBT students were victims of verbal assault and 25 percent fell victim to physical violence. On July 18, the plenipotentiary launched a Council of Europe project to combat discrimination on grounds of sexual orientation and gender identity by implementing guidelines to protect LGBT persons from unequal treatment.

### **Other Societal Violence or Discrimination**

During the first nine months of the year, the government's AIDS Center received two complaints of discrimination against a person with HIV/AIDS. One person was fired from a position as room servant; the other was not hired as a janitor in a fast-food restaurant. The center found no evidence in either case that the decisions were related to the HIV status of the complainants.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The constitution and the law provide that all workers, including civilian employees of the armed forces, police, and border guards, have the right to establish and join independent trade unions without previous authorization or excessive requirements and bargain collectively. Foreign and migrant workers also have the right to unionize. Self-employed workers and workers on short-term contracts cannot form a union, and some categories of government workers (police officers, border guards, and guards in penitentiary institutions, and the employees' supreme audit office) are limited to a single union.

The constitution provides for the right to organize workers' strikes or other forms of protest for trade unions, but specifies that, for protection of public interest, specific laws may limit or forbid the conduct of strikes by specified categories of employees or in specific areas. The law places some conditions on strikes: 50 percent of employees at the company and industry level must vote in favor, and a strike may not be called earlier than 14 days after the workers present their demands to the employer. The law obligates employers to notify the district inspection office in their region about a group dispute in the workplace. Workers in services deemed essential, such as security forces, the Supreme Chamber of Audit, police, border guards, and fire brigades, do not have the right to strike. These workers have the right to protest and seek resolution of their grievances through mediation and the court system. This list of "essential services" exceeded the International Labor Organization's (ILO's) definition.

The constitution and the law provide for and protect enterprise-level collective bargaining over wages and working conditions, although some civil servants are restricted in this right. The law provides for parties to take group disputes to formal mediation, then to the Board of Social Arbitration in either the district court or Supreme Court depending on the number of employers involved, and, as a last resort, to strike. Key public-sector employers may not negotiate with labor without the extensive involvement of the ministries to which they are subordinate.

The law allows unions to conduct their activities without interference. It prohibits antiunion discrimination, although the constitution only provides for the freedom of association in trade unions. Trade unions reported that the law does not provide adequate means of protection against discrimination. The law prohibits some categories of government workers from holding union office.

On June 28, Chung Hong Electronics Poland (a Chinese company producing television components) fired the chairman of the local trade union, Worker's Initiative. The union conducted a strike in protest, and on July 10, the company fired 24 employees engaged in the strike for allegedly violating the labor law. According to the union, participating in the strike was the primary reason for dismissal. On July 17, Deputy Speaker of Parliament Wanda Nowicka stated that these dismissals were an unprecedented attempt to violate the right to protest. The workers filed complaints in the Wroclaw labor court demanding that they be reinstated and seeking compensation. Two separate trials involving 20 of the dismissed employees began in October, and both cases were pending at the end of the year.

While many workers exercised the right to organize and join unions, many small- and medium-sized firms discriminated against those who attempted to organize. The government sometimes failed to protect the right to union activity without interference at small- and medium-sized companies. Newly established small- and medium-sized firms were generally nonunion, while privatized, formerly state-owned enterprises frequently continued union activity.

In many cases cumbersome procedures made it difficult to meet all of the legal technical requirements for strikes. Labor courts acted slowly in deciding the legality of strikes, while sanctions against unions for calling illegal strikes and against employers for provoking them were minimal. Unions alleged that the government did not consistently enforce laws prohibiting retribution against strikers and that the small fines imposed as punishment were ineffective deterrents to employers. In 2011 the National Labor Inspectorate (NLI) registered 365 disputes, compared with 342 disputes in 2010.

Labor leaders reported that employers frequently discriminated against workers who attempted to organize or join unions, particularly in the private sector. Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing the workplace. The law did not prevent employer harassment of union members for trade union activity; there were unconfirmed reports that some employers sanctioned employees who tried to organize unions. Managers also asked workers in the presence of a notary public to declare whether they were union members.

On March 28, the ILO responded to a complaint against the government by the Solidarity trade union alleging infringement of workers' freedom of association.

Solidarity asserted that the law on trade unions did not comply with ILO Convention No. 87 (right to organize), since it limits the rights of self-employed persons, telecommuters, and others to establish and join trade unions. The ILO concurred with Solidarity and found the government in violation of ILO conventions Nos. 98 (right to organize and bargain collectively) and 135 (protection of workers' representatives). The ILO recommended that the government revise the law to extend to all workers the right to establish and join organizations of their own choosing. The government has not yet complied with this recommendation.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The government effectively enforced the law. The government took a number of steps to prevent forced labor by simplifying or legalizing the work of foreigners in the country. On January 1, a new amnesty law for illegal migrants entered into force. Under this law, foreign citizens who have been working illegally in the country may obtain the right to work legally. The law applies to foreigners residing continuously in the country since December 2007, as well as those living in the country since January 2010 who have been refused refugee status. Those who qualified were given residency and work permits for two years.

In 2011 the government-funded national intervention-consultation center for victims of trafficking provided assistance to 133 victims of trafficking of which 41 were victims of trafficking for forced labor. There were reports that employers subjected men and boys to forced labor in the agricultural, manufacturing, and food processing sectors.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children under the age of 16, with exceptions in the cultural, artistic, sporting, and advertising fields when parents or guardians and the local labor inspector give their permission. Persons between the ages of 16 and 18 may work only if they have completed middle school, the proposed employment constitutes vocational training, and the work is not harmful to their health.

The NLI reported that minors worked, and many employers underpaid them or delayed their pay. During the first half of the year, the inspectorate conducted 534 inspections involving 2,330 underage employees (16 to 18 years of age), compared with 538 inspections involving 2,502 underage employees during the same period in 2011. Authorities levied fines totaling 129,100 zloty (\$41,590) in 112 cases. According to the NLI, employers implemented 95 percent of all labor inspection decisions, although a report by the NLI indicated that some legal requirements weakened the effectiveness of labor inspections, such as the requirement in some sectors that a company receive notification of upcoming inspections seven days in advance.

The majority of the employees found to be underage worked in commercial enterprises, repair shops, processing industries, restaurants, and construction.

#### **d. Acceptable Conditions of Work**

A tripartite commission composed of unions, employers, and government representatives was the main forum that determined minimum national wage and benefit increases in sectors such as social services. The national monthly minimum wage, which took effect in January, was 1,500 zloty (approximately \$483). According to the Institute of Labor and Social Studies, the social minimum income level for one person was 983 zloty (\$317) and 3,221 zloty (\$1,038) for a family of four in 2011. The subsistence level was 501 zloty (\$161) for one person and 1,703 zloty (\$549) for a family of four. The large size of the informal economy and the low number of government labor inspectors made enforcement of the minimum wage difficult. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage. The European Working Conditions Observatory (ECWO) reported that in 2010 the country's rate of in-work poverty was 11.4 percent. The law requires equal pay for equal work as well as equal treatment with respect to signing labor contracts, conditions of employment, promotion, and access to training. The law defines equal treatment as nondiscrimination in any way, directly or indirectly on the grounds of gender, age, disability, race, religion, nationality, political opinion, ethnic origin, denomination, sexual orientation, whether or not the person is employed temporarily or permanently, full time or part time. The law further specifies that an unfavorable system of remuneration for work or other conditions of employment is a violation of the principle of equal treatment. These provisions are difficult to enforce in the courts.

The law provides for a standard workweek of 40 hours, with an upper limit of 48 hours including overtime. The law requires premium pay for overtime hours, but there were reports that employers often ignored this requirement. The law prohibits excessive and compulsory overtime and sets a maximum of 150 hours of overtime per year. The law provides for workers to receive at least 11 hours of uninterrupted rest per day and 35 hours of uninterrupted rest per week. The constitution provides for every employee to have the right to statutorily specified days free from work, as well as annual paid holidays. The law also provides for 20 days of paid annual holidays for employees with fewer than 10 years of work experience and 26 days for those employed for at least 10 years.

The law defines strict and extensive minimum conditions to protect worker health and safety. It empowers the NLI to supervise and monitor implementation of worker health and safety laws and to close workplaces with unsafe conditions. In 2011 there were approximately 1,700 labor inspectors, the same number as in the prior year. In August the ECWO reported that in 2011 the NLI conducted 262 inspections of work safety and 345 of working conditions (607 in total), compared with 175 and 245 respectively (420 in total) in 2010. Decisions were issued on 1,105 projects, compared with 929 in 2010, and 88 of these resulted in the suspension of works, compared with 45 in 2010. In 57 cases in 2011, employees were delegated to other tasks, compared with 33 in 2010. In addition 83 persons in charge of work safety were given mandatory fines in 2011, compared with 68 in 2010.

However, the NLI was unable to monitor workplace safety adequately. In the first half of the year, the Central Statistical Office reported 40,171 victims of workplace accidents, a decrease of almost 4,000 from the same period in 2011. In 2011 the inspectorate investigated 2,370 accidents, in which there were 2,740 injuries, including 432 workers killed and 883 persons seriously injured.

Employers routinely exceeded standards for exposure to chemicals, dust, and noise. According to the inspectorate, the lack of professional experience, necessary safety precautions, and organization were the leading causes of workplace accidents. The majority of accidents occurred in mining, transport, chemical, construction, and services industries. The most frequent labor rights violations concerned failure to pay wages or delayed payment, and most wage payment violations occurred in the services, construction, and processing industries. Seasonal workers were also particularly vulnerable to such violations. The second most common problem was credibility of timekeeping records for hours worked.